

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,)
) CASE NO. CR20-092 JCC
Plaintiff,)
)
v.)
) ORDER DENYING REQUEST TO
JOSE DANIEL ESPINOZA,) REOPEN DETENTION ORDER
)
Defendant.)
_____)

Defendant has been indicted on a charge of Conspiracy to Distribute Controlled Substances (Dkt.1.) Defendant was detained by this Court following a detention hearing. his (Dkt. 145.)

Defendant moves to reopen this Court's detention order (Dkt. 321). In support of his motion, defendant asserts he suffers from a chronic asthma condition, suggesting the increased use of disinfectants at the Federal Detention Center due to the COVID-19 pandemic has aggravated this condition. He argues the risk of flight has been minimized due to being drug

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01 free while incarcerated for the past four months. The government opposes the motion. (Dkt.
02 325.) This motion was referred by The Honorable John C. Coughenour to the undersigned for
03 decision.

04 A request to reopen a detention hearing is based on 18 U.S.C. § 3142(f)(B), which
05 provides that a detention hearing may be reopened “if the judicial officer finds that information
06 exists that was not known to the movant at the time of the hearing and that has a material bearing
07 on the issue whether there are conditions of release that will reasonably assure the appearance
08 of such person as required and the safety of any other person and the community.” *Id.*

09 In large part, defendant’s motion fails on those grounds. According to defendant, he
10 has suffered from asthma since childhood. While his counsel may not have been aware of this
11 condition, defendant himself was certainly aware. Defendant asserts an aggravation of this
12 condition due perhaps to the increased use of disinfectants at the FDC due to the pandemic.
13 This assertion is speculative and, at any rate, the FDC has responded to defendant’s concerns
14 by offering a bronchodilator for defendant to use as needed.

15 Further, defendant does not succeed in rebutting the presumption he poses both a risk
16 of flight and a risk of danger. As noted in the Court’s detention order (Dkt. 145), defendant’s
17 criminal record shows multiple incidents of violation of supervision, as well as allegations of
18 actions on behalf of the conspiracy involving violence or threats of violence. Defendant fails
19 to make the required showing that would justify reopening the Court’s determination that
20 defendant poses a risk of danger and a risk of nonappearance.

21 Defendant’s motion to reopen the detention hearing is DENIED.
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01 DATED this 30th day of November 2020.

02 

03 Mary Alice Theiler
04 United States Magistrate Judge

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